SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 41st PARLIAMENT • VOLUME 148 • NUMBER 28

OFFICIAL REPORT
(HANSARD)

Tuesday, November 15, 2011

The Honourable NOËL A. KINSELLA
Speaker

CONTENTS

(Daily index of proceedings appears at back of this issue).

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: David Reeves, National Press Building, Room 926, Tel. 613-947-0609

Published by the Senate
Available from PWGSC – Publishing and Depository Services, Ottawa, Ontario K1A 0S5.
Also available on the Internet: http://www.parl.gc.ca

THE SENATE

Tuesday, November 15, 2011

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the following officers and members of the Royal Canadian Navy who received awards earlier today at a ceremony we hosted on the occasion of Navy Appreciation Day: Lieutenant-Commander Donna Barnett, Lieutenant Chris M. Devita, Master Seaman Jarris W. Sampson, Master Seaman Kurt Sheppard, Master Seaman J. Kurt Swanson and Leading Seaman Scott Darbison. They are guests of the Honourable Senator Mercer and the Honourable Senator Segal.

On behalf of all senators, I welcome you to the Senate of Canada.

SENATORS' STATEMENTS

NAVY APPRECIATION DAY

Hon. Hugh Segal: Honourable senators, today is Navy Appreciation Day, and it is thanks to the work of sailors like those who were just introduced that contributions made by the Royal Canadian Navy to homeland defence, international security and humanitarian assistance are recognized by partners and allies across the globe. They are but six of the thousands of Canadian men and women — sailors and Maritime aviators — working every day in some of the toughest neighbourhoods in the world.

In calling upon all of my colleagues in this chamber and fellow citizens across the country to celebrate the many achievements, heroic engagements, complex deployments and endless sacrifices made by the men and women of the Royal Canadian Navy, I will not direct your attention to the past. However, our naval history calls out for broad appreciation and profound gratitude. The centenary in 2010 afforded all Canadians from coast to coast a rare opportunity to connect with a naval history that in many respects is at the centre of Canada's development for the last 100 years. Her Majesty's visit and the fleet reviews underlined how important that event was for all Canadians.

Today is a day to look to the future. A modern, flexible, technologically advanced naval force, made real by a growing complement of Canada's best and brightest, is what we have now, with 33 fighting and training vessels and procurement plans for a modernized and refurbished new fleet to come on stream. We have men and women with a wide range of weapons, navigation, fire safety, electronic warfare, intelligence and leadership skills second to none in the world. It is much harder to become the XO or the 2IC of one of Her Majesty's smaller Canadian ships than it is to become a deputy minister of one of our largest federal departments.

[*Translation*]

Senior officers have received the necessary training, passed tests, received their certifications and have been through a situational assessment of their significant specialized skills in various areas. This also applies to other men and women in uniform. The navy has a highly specialized function. The men and women who wear Royal Canadian Navy uniforms must confront an unrelenting sea, encounter a wide variety of serious risks and maritime hazards and, in addition, they must meet a range of stringent requirements with respect to strategy, environment, intelligence and abilities to act.

[*English*]

At a time when the Russians and Chinese are cutting steel, with our Russian friends focusing especially on the Arctic, at a time when the risk of the closing of the Strait of Hormuz is part of any strategic analysis of the present Middle East and the Gulf, there has never been a more important post-war period to stand shoulder to shoulder with our men and women in dark blue. What does that mean? It means that as we celebrate today, we commit to ensure that no Canadian ship will stand idle at dockside for lack of trained men and women to sail her, that no artificial fuel budget will constrain our fleet's capacity on all three coasts to do its duty and patrol our ocean frontiers. It means that we do not let billions be lost between cup and lip because bureaucrats in Treasury Board or even the civilian side of defence are only too glad to break faith.

[*Translation*]

Whether they are fighting pirates off the Horn of Africa to secure shipping corridors for legitimate maritime activities, participating in efforts to keep drugs from reaching our shores, or providing relief in the aftermath of natural disasters — whether it is in Haiti or here, in Nova Scotia — sailors with the RCN help improve the living conditions of people around the world.

[*English*]

They served off the coast of Libya; they served in difficult circumstances; they helped liberate Misrata from the worst and most negative of forces.

As we celebrate Navy Appreciation Day, as they say "Ready, Aye, Ready," let us we say "We stand with you, the men and women of the Royal Canadian Navy."

Hon. Terry M. Mercer: Honourable senators, I would like to echo the comments made by my colleague Senator Segal on the occasion of Navy Appreciation Day. I thank him for co-sponsoring the event this evening and would also like to thank the Speaker for hosting the small ceremony in the chamber this morning honouring our six naval heroes. I would encourage all colleagues to join us

this evening at a reception in honour of the Royal Canadian Navy, sponsored by the Navy League of Canada, and have an opportunity to meet these six fine young Canadians.

As the son of a navy veteran and the father of a former sea cadet who is now a young officer in a sea cadet corps in Nova Scotia, I am very proud of our men and women in uniform who give so much of themselves in service of our country.

NATIONAL PHILANTHROPY DAY

Hon. Terry M. Mercer: Honourable senators, today is also a very special day for me. November 15 is National Philanthropy Day. This year, more than 50,000 people in 125 communities around the world will participate in celebrations. On this day we will pay special tribute to the great contributions of charitable organizations, volunteers, donors and everyday citizens who actively participate in making our country and our world a better place.

Honourable senators, through the kindness and generosity of Canadians, we were able to ensure that our most vulnerable have food and clothing, that our scientists and doctors can work as hard as they can to eradicate disease and illness and that our children and youth grow up in a world where they can succeed to their fullest potential.

Those are only a few things that philanthropy can do. There is no end to the capacity of volunteers and donors when we do our best to encourage them to keep doing what they do best.

Honourable senators, as you know, I am sponsoring Bill S-201, An Act respecting a National Philanthropy Day. Quoting from the preamble, "it is important to honour all Canadians who demonstrate the spirit of giving by recognizing National Philanthropy Day" officially. Therefore, I ask you to support that bill when it comes back.

I know you will all join me in thanking those tens of thousands of Canadians and those citizens around the world who give of themselves in order to see better communities, a prosperous country and a peaceful world.

• (1410)

RECOVERY OF ARTILLERY PIECES

Hon. Joseph A. Day: Honourable senators, this intervention may be entitled "A Tale of Two Guns." Last week an important dedication ceremony took place with respect to a six-inch gun — sometimes referred to as an artillery piece — recovered from Partridge Island, an island that guards the harbour of Saint John, New Brunswick.

The gun itself began its life as part of a 16-gun cruiser, HMCS *Niobe*, as part of the fleet Britain sent to fight in the Boer War in 1897. The HMCS *Niobe* served in Her Majesty's Navy until she was donated to the fledgling Royal Canadian Navy in 1910, where she was in active service until the Halifax explosion of 1917. Damaged at that time, the ship was scrapped, but the guns were sent to fortifications throughout Canada, two of which were installed at Partridge Island. Here the guns served the 3rd Field Artillery Regiment, or the Loyal Company, until the guns were retired in 1947.

The commanding officer, Lieutenant-Colonel Stephen Stachan, stated during the dedication ceremony that artillery units do not have flags like most infantry units, only their guns. Hence, leaving these guns on the abandoned post did not seem right. It is appropriate that these guns were sent to the units where they so proudly served.

It is for that reason that the two guns were the target of a major excavation effort on Partridge Island in 1981. When they were decommissioned in 1941, the guns had been buried, allegedly to preserve them, but they were forgotten. They were rediscovered during historical research conducted on the island, at which point the 3rd Field Artillery Regiment members were sent to recover the guns.

Thanks in part to the efforts of the Canadian Forces and the generous contribution of Honorary Colonel John Irving, one of these guns is now proudly deployed at the Barrack Green Armoury in the city of Saint John as a monument to all those who bravely manned it in defence of Canada. The other is at the Royal Canadian Navy reserve unit in Saint John, HMCS *Brunswicker*.

As our Canadian Forces rapidly evolve to take on the challenges of the new century, it is important that we take time to reflect on our country's history as well. Brigadier-General Christopher Thurrott, Commander of Land Forces Atlantic Area, alluded to this during the dedication ceremony when he stated that we must appreciate and celebrate our past as we prepare for our future.

I trust, honourable senators, that all of us here in this place are in full agreement with him.

BULLYING AWARENESS WEEK

Hon. Salma Ataullahjan: Honourable senators, I rise today to call attention to the ninth annual Bullying Awareness Week, taking place this year from November 13 to 19.

Created by Bill Belsey, an acclaimed Canadian educator, Bullying Awareness Week aims to prevent bullying through awareness and education in a positive and proactive manner. Schools in the country and around the world take part in activities throughout the week to "Stand Up!" to bullying, which is this year's theme. Children are encouraged to get involved and "be the change," learning that 85 per cent of bullying occurs in the context of a peer group and that a bully will stop his or her behaviour 10 seconds after their peers speak up.

Honourable senators, bullying is not a rite of passage or a normal part of life. It is a universal problem that affects children directly or indirectly regardless of age, gender, culture, religion or nationality. Children who are bullied face severe anxiety, depression and contemplation of suicide. It is often referred to as a "prison sentence," where children are tormented daily inside the school, a place that should be a safe and supportive environment.

Nowadays, bullying continues beyond the schoolyard, even following children into their own homes. With the rising use of devices such as cellphones and computers among youth, cyber-bullying is the new frontier of abuse.

Bullying is a real concern to Canadians. Canadian high schools experience 282,000 incidents of bullying per month, much of it unreported. A 2001-02 survey of the World Health Organization ranked Canada twenty-sixth and twenty-seventh out of 35 countries on measures of bullying and victimization.

We need look no further than the recent string of suicides in the country. Suicide is now the second leading cause of death among Canadian youth, where four youths under the age of 19 are known to commit suicide every week. James Hubley, the 15-year-old son of Ottawa city councillor Allan Hubley, committed suicide last month after enduring bullying and vicious taunts in school.

In September, Mitchell Wilson, an 11-year-old boy from Pickering, Ontario, who suffered from muscular dystrophy, took his own life after being brutally mugged and attacked by a bully. The bullying in his case did not stop even after his death, but continued online.

Bullying and cyber-bullying are not solely a "school" problem, but a community issue. It is a national issue that requires a response at all levels. As a member of the Standing Senate Committee on Human Rights, I can assure you that this is at the forefront of our interests. I also commend the cities of Calgary and North Bay for officially proclaiming this as Bullying Awareness Week and hope that many more will do the same.

MAURICE GUITTON

CONGRATULATIONS ON RECOGNITION BY AEROSPACE INDUSTRIES ASSOCIATION OF CANADA

Hon. Wilfred P. Moore: Honourable senators, on Wednesday, November 2 last, the Aerospace Industries Association of Canada, the AIAC, held its fiftieth anniversary gala reception and dinner in Ottawa. The AIAC is not-for-profit organization that advocates on aerospace policy issues that have a direct impact on aerospace companies and aerospace jobs in Canada. Indeed, it is "the" national voice of Canada's aerospace industry.

In 2009, the AIAC established the James C. Floyd Award, which honours Mr. Floyd, the chief designer for Avro Canada, who played a central role in the development of some of the greatest planes ever produced in Canada, including the C-102 Jetliner, the CF-100 fighter and the Avro Arrow. This award is presented annually by the AIAC to visionaries whose contributions have made a difference in the industry.

At its recent gala, the AIAC presented its James C. Floyd Award to Maurice Guitton of Lunenburg, Nova Scotia, whose corporate path is truly an inspirational story of leadership, entrepreneurship and devotion. He founded Composites Atlantic Limited in Lunenburg in 1993, and it has become a leader in the design, testing, certification and manufacture of advanced composites for the aerospace, space, defence and commercial industries. He created a successful business, beginning with a staff of 8 and rising to its current 320 employees.

Mr. Guitton has revolutionized the aerospace industry, in particular helping small- and medium-sized enterprises upgrade their quality assurance standards to meet the industry's requirements, and he has driven the development of new technologies to help improve the quality of produced parts. Among the items of advanced composites that Composites Atlantic designs and manufactures are the struts that hold the engines to the wings of Boeing's new "787 Dreamliner" ultra-light jetliner.

He was one of the initiators of the Aerospace and Defence Industries Association of Nova Scotia, where he served as president and a director, as well as assisting in the creation of other aerospace associations in Atlantic Canada.

We therefore congratulate Maurice Guitton for this most deserved recognition bestowed upon him. He truly is a Canadian aerospace visionary and I am proud to call him my friend.

HERBERT H. CARNEGIE, C.M., O. ONT.

Hon. Don Meredith: Honourable senators, November 8, 2011, marked the ninety-second birthday of a national and community hero, Dr. Herbert H. Carnegie.

Unlike most Black youth of his time, Dr. Carnegie dreamed of one day playing in the National Hockey League, practising two hours every day before going to school. Born to Jamaican parents in Toronto, he went on to become the first African-Canadian offered an opportunity to play in the NHL.

In 1938, while watching Herbert H. Carnegie practise with the Toronto Young Rangers, Toronto Maple Leafs owner Conn Smythe, marvelling at his natural talent, said he wished "he could turn Carnegie white."

Decades later, Dr. Carnegie said, "I felt at the time that my dream of playing in the NHL had been dashed." He was offered a minor league contract with the New York Rangers but was forced to decline due to family and financial obligations, which marked the end of his dream.

• (1420)

He returned to the Quebec Senior Hockey League, where he would play with future Montreal Canadiens like Jean Béliveau. Nevertheless, he paved the way for future Black hockey players. Unfortunately, the colour barrier in professional hockey was not broken until 1958, when Willie O'Ree suited up with the Boston Bruins.

Dr. Carnegie went on to write an autobiography where he spoke candidly about the adversity he faced. He said:

> Although my brother and I had finished among the league's top scorers, the NHL scouts left us standing in the cold. Ossie and I talked about it and there was no doubt in our minds that our problem was colour. . . . I felt that if I could continue to play hard and to excel, sooner or later, I would get my chance. Somebody out there, I continued to hope, would have a heart.

Herbert H. Carnegie would go on to have an even greater impact off the ice in founding the Future Aces Hockey School, one of the first hockey schools in Canada, and the Herbert H. Carnegie Future Aces Foundation. He penned a popular Future Aces creed designed to help youth develop self-knowledge and self-confidence. This creed has been embraced by many schools in Ontario and beyond. Honourable senators, I submit to you that I would like to see the use of this system expanded throughout our school system.

Dr. Carnegie would go on to be named to the Order of Ontario in 1996, the Order of Canada in 2003 and to receive an Honorary Doctor of Laws degree from York University for his work as a community leader. He also has a school named after him in Vaughn, Ontario, the Herbert H. Carnegie Public School, which officially opened in 2008-09. I had the privilege of hosting a number of those students right here in this place on May 5 of this year.

Herbert H. Carnegie remains an inspiration to a new generation of Canadians on overcoming barriers and working hard on their goals. Please join me, honourable senators, in celebrating his ninety-second birthday and paying tribute to this remarkable Canadian and mentor.

ROUTINE PROCEEDINGS

RECEIVER GENERAL OF CANADA

PUBLIC ACCOUNTS OF CANADA—
2011 REPORT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the 2011 Public Accounts of Canada.

[*Translation*]

EEYOU MARINE REGION LAND CLAIMS AGREEMENT

DOCUMENT TABLED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, the Eeyou Marine Region Land Claims Agreement.

MARKETING FREEDOM FOR GRAIN FARMERS BILL

NOTICE OF MOTION TO AUTHORIZE AGRICULTURE
AND FORESTRY COMMITTEE TO STUDY
SUBJECT MATTER OF BILL C-18

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, in accordance with rule 74(1), the Standing Senate Committee on Agriculture and Forestry be authorized to examine the subject-matter of Bill C-18, An Act to reorganize the Canadian Wheat Board and to make consequential and related amendments to certain Acts, introduced in the House of Commons on October 18, 2011, in advance of the said bill coming before the Senate.

THE SENATE

STATUTES REPEAL ACT—NOTICE OF MOTION
TO RESOLVE THAT THE ACT AND
THE PROVISIONS OF OTHER ACTS NOT BE REPEALED

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to section 3 of the *Statutes Repeal Act*, R.S., 2008, c. 20, the Senate resolve that the following Act and the provisions of the other Acts listed below, which have not come into force in the period since their adoption, not be repealed:

1. *Comprehensive Nuclear Test-Ban Treaty Implementation Act*, S.C. 1998, c. 32;

2. *An Act to amend the Canada Grain Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and to repeal the Grain Futures Act*, S.C. 1998, c. 22:

   -ss. 1(1) and (3), 2 to 5, 6(1) and (2), 7, 9, 10, 13 to 16, s. 17 in respect of par. 88(1)(*a*) of the English version of the *Canada Grain Act* and in respect of the portion of s. 88(1) of the French version of the *Canada Grain Act* that reads as follows: "soit pénétrer dans une installation ou dans les locaux d'un titulaire de licence d'exploitation d'une installation ou de négociant en grains ou en cultures spéciales s'il a des motifs raisonnables de croire que des grains, des produits céréaliers ou des criblures s'y trouvent, qu'ils appartiennent au titulaire ou soient en sa possession, ainsi que des livres, registres ou autres documents relatifs à l'exploitation de l'installation ou du commerce", and ss. 18 to 23, 24(2) and (3) and 26 to 28;

3. *An Act to amend the Canadian Wheat Board Act* and to make consequential amendments to other Acts, S.C. 1998, c. 17:

   -ss. 6(3), 7, 18(1), 19(4), 22 and s. 25 in respect of s. 47 of the *Canadian Wheat Board Act*;

4. *Agricultural Marketing Programs Act*, S.C. 1997, c. 20:

   -ss. 44 to 46;

5. *Canada Grain Act*, R.S., c. G-10:

   -par. (*d*) and (*e*) of definition "elevator" in s. 2, and

   -ss. 55(2) and (3);

6. *Canadian Wheat Board Act*, R.S., c. C-24:

-ss. 20 to 22;

7. *Budget Implementation Act*, 1998, S.C. 1998, c. 21:

-ss. 131 and 132;

8. *An Act to implement the Agreement on Internal Trade*, S.C. 1996, c. 17:

-ss. 17 and 18;

9. *Nordion and Theratronics Divestiture Authorization Act*, S.C. 1990, c. 4:

-s. 9;

10. *Preclearance Act*, S.C. 1999, c. 20:

-s. 37;

11. *Contraventions Act*, S.C. 1992, c. 47:

-ss. 8(1)(*d*), 9, 10, 12 to 16, 17(1) to (3), 18, 19, 21 to 23, 25, 26, 28 to 38, 40, 41, 44 to 47, 50 to 53, 56, 57, 60 to 62, 84 with respect to ss. 1, 2.1, 2.2, 3, 4, 5, 7, 7.1, 9, 10, 11, 12, 14 and 16, and 85;

12. *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12:

-ss. 89, 90, 97, 107(1) and (3), 109, 128, 174, 175(2), 176(1), 177, 178, 180 to 186, 275, 277, 286 to 288 and 290;

13. *Firearms Act*, S.C. 1995, c. 39:

-par. 24(2)(*d*), ss. 39, 42 to 46, 48 and 53;

14. *Marine Liability Act*, S.C. 2001, c. 6:

-s. 45;

15. *Canada Marine Act*, S.C. 1998, c. 10:

-ss. 140, 178, 185, and 201, and

-Part 2 to the Schedule; and

16. *Public Sector Pension Investment Board Act*, S.C. 1999, c. 34:

-ss. 155, 157, 158, 161(1) and (4).

EEYOU MARINE REGION LAND CLAIMS AGREEMENT BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-22, An Act to give effect to the Agreement between the Crees of Eeyou Istchee and Her Majesty the Queen in right of Canada concerning the Eeyou Marine Region.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Carignan, bill placed on the Orders of the Day for second reading two days hence.)

• (1430)

[*English*]

QUESTION PERIOD

NATIONAL DEFENCE

F-35 AIRCRAFT PURCHASE

Hon. Joseph A. Day: Honourable senators, my question is for the Leader of the Government in the Senate, and it relates to the issue of the F-35. I wonder if she could turn her briefing book to that page because many factors are involved with respect to this particular matter.

The costs have been escalating out of control, and there seems to be no consensus as to costs. Government spokespersons continue to say the cost will be $75 million per unit, whereas the Parliamentary Budget Officer has said $128 million per unit. Then it went up to $150 million per unit, and now, through the budget officer in the United States and other consultants, it is looking very much like $200 million per unit. Canadians have lost faith in this project, and Canadians have lost faith in what the government is telling them about why we need this aircraft.

If we reduce the number from 65 in order to keep the overall envelope of the costs down, then it is not feasible to have these aircraft. That is a statement by our Chief of the Defence Staff.

I think the government might be looking for a reasonable way out of this serious dilemma, and I will suggest that perhaps there would be no fault on anyone's part in deciding that this was a development contract from which we can withdraw at any time.

Would the minister advise us as to whether the government is prepared to take that advice?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, it seems to me that the people on the honourable senator's side are the experts at withdrawing from contracts.

Again, honourable senators, it is clear that Canada needs military aircraft to protect our sovereignty. We will continue to ensure, as we always have since we formed government, that our men and women in the Armed Forces have the best equipment available to do their jobs effectively. The F-35 is the best value for money for what Canada needs and is the only aircraft that will meet the needs of our Armed Forces.

We have budgeted $9 billion for the purchase of the F-35 aircraft. Canada is purchasing the most cost-effective variant of the aircraft at the peak of production when the costs will be at their lowest.

Again, honourable senators, I am always bemused at why Liberals want to question the F-35 program, when in fact it was started under the previous government.

Senator Day: Honourable senators, I thank the minister for the answer. I suspected that she might, in her briefing book, find that $9 billion has now been increased to $29 billion by every knowledgeable budgetary party in both Canada and the United States.

However, I wonder whether the minister is aware that Turkey, the Netherlands, Norway, Israel and Australia were all part of the development consortium, and all of those countries have now indicated that they will reduce or hold their orders entirely because of the last announcement of a two-year delay.

Is the minister aware, as well, that U.S. Secretary of Defense, Mr. Leon E. Panetta, stated yesterday that if the budget cuts they are anticipating in the United States come about, that may kill the Lockheed F-35 jet program in its entirety? If the minister is aware of those things, why are we continuing to suggest that we can buy these aircraft for about a third of the cost of the real cost, and why do we not withdraw from this project now?

Senator LeBreton: Honourable senators, in his question, the honourable senator said that if such and such happens, such and such may happen. Obviously, I will not respond to ifs and mays.

The fact is, and I repeat, the government has budgeted $9 billion for the purchase of these aircraft, and we are purchasing the most cost-effective variant of the aircraft at the peak of production when costs will be at their lowest. It is very clear, honourable senators, that the CF-18s will have outlived their existence by, I believe, 2016, 2017 or 2018, and we do need an aircraft. That is still some years away, as you know, and we need an aircraft to replace the CF-18s.

Senator Day: I was hoping that the minister would have taken my suggestion and decided that we should not continue in this contract.

Canada has indicated it will be placing an order for 65 aircraft. Assuming that the government's position continues to be as the minister has just stated, does she agree that 65 aircraft will be the number and it will not be reduced in order to meet the envelope of $9 billion?

Senator LeBreton: Honourable senators, try as Senator Day might, he will not be successful in putting words in my mouth. As I stated before, we budgeted $9 billion to purchase these aircraft. There is no question that they are needed because the CF-18s will reach the end of their life cycle, and we will need aircraft to replace them. Those are the government's plans, and that is how we intend to proceed.

Hon. Wilfred P. Moore: Honourable senators, my question is directed to the Leader of the Government in the Senate.

In view of the projected costs outlined by Senator Day, as they continue to spiral upward and could be as much as $150 million or $160 million per unit, has the government considered that there would be a point when it would be ready to go back to the drawing board and seek open competition for an aircraft for Canada's needs?

Senator LeBreton: I think I have answered that question before. The process for the acquisition of the F-35 began under the previous government, and, again, I fail to see why the choice of this aircraft under the previous government was the right choice and now, because there is another government, it is the wrong choice.

Senator Moore: The minister can keep relying on what the other government did only for so long. The government will have to start to make decisions of its own, given the current economic climate. The government inherited a great economic climate from us, and now it has to deal with its own situation and answer its own questions.

I want to pick up the point that Senator Day mentioned with regard to the letter issued yesterday by U.S. Secretary of Defense Leon E. Panetta. He said that if a special committee of lawmakers fails to reach agreement on U.S. deficit reduction by November 23 — eight days hence — that would trigger a so-called sequestration, which means that the federal spending would be cut automatically. It would be about a trillion dollars in cuts to the budget of the U.S. Department of Defense.

• (1440)

This is a very real question, not just conjecture. We are talking about eight days from now. What is the plan? If the U.S. Department of Defense is not able to achieve these cuts with this committee of lawmakers, this F-35 project will be cancelled, in all likelihood, along with other major U.S. defence expenditures.

What does the Government of Canada anticipate doing in that situation? They must have considered it, because it is very real.

Senator LeBreton: I thank the senator for the question. He is asking me a question based on news stories about what has been said in the United States. Obviously our officials will be carefully watching the situation in the United States. However, I, on behalf of the government, will not wander into this territory when the question at the moment is hypothetical.

Senator Moore: Honourable senators, hypothetical as the question may be to the leader, this is a letter. This is not hypothetical; it is a letter from the U.S. Secretary of Defense to Senators John McCain and Lindsey Graham. It is very real. They are anticipating that this will happen, and I think we should be looking at this and deciding what we will do.

One cannot deny that the costs have gone out of control in relation to the F-35. I do not see anywhere in any of the leader's comments where she has decided to look at the F-18, the Super Hornet, as other governments are doing, including the United States of America.

Senator LeBreton: Honourable senators, I will not comment on the contents of a letter sent by Mr. Panetta to two U.S. senators, other than to say that I am absolutely confident that the officials in the Department of National Defence are monitoring the situation very closely.

Senator Moore: Will the leader be prepared to put an answer to these questions on November 23?

Senator LeBreton: Again, I will make no such commitment. I will stand by my statement that I am sure they are watching the situation south of the border very carefully.

FOREIGN AFFAIRS

CONVENTION ON CLUSTER MUNITIONS

Hon. Elizabeth Hubley: Honourable senators, my question is directed to the Leader of the Government in the Senate. Tens of thousands of civilians worldwide have been killed or injured by cluster bombs and, on average, a quarter of the reported civilian casualties are children.

In support of the eradication of these munitions, Canada signed the UN Convention on Cluster Munitions on December 3, 2008, yet Canada has still not ratified the convention. Since that time, I have stood in this chamber on six separate occasions to inquire as to when Canada will be ratifying the convention. Each time, I have been given assurances that our government is still committed to the convention and work is under way to draft the necessary legislation.

As it is now almost three years since the signing, can the leader inform this house as to when we can expect the legislation to ratify the convention?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I thank the senator for the question. Senator Hubley will not be satisfied with the answer, because it will be the same as I have given in the past.

We were, of course, one the first countries to sign on to the convention in Oslo in December 2008. Work is under way to seek ratification. As honourable senators know, Canada has never produced or used cluster munitions and is in the process of destroying its complete stockpile. I cannot give a definitive answer as to when this will be ratified.

Senator Hubley: Honourable senators, I eagerly anticipate the tabling of the legislation. In particular, I will be interested in examining in detail the implementation of Article 21 of the convention in regard to the interoperability provisions.

Can the leader provide this house with some assurances that the government is carefully considering the implications of Article 21 and, furthermore, that within the legislation, the interpretation will not be so unnecessarily broad as to weaken the convention?

Senator LeBreton: I thank the senator for the question. I will have to take that question as notice to get precise information on the interpretation.

[*Translation*]

HUMAN RESOURCES AND SKILLS DEVELOPMENT

CANADIAN COUNCIL ON LEARNING

Hon. Claudette Tardif (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. On October 11, the Canadian Council on Learning, which will not have its funding renewed in 2012, published its report on the state of provincial education systems.

The conclusion is rather dismal. The lack of political will, the fear of intergovernmental conflicts and a lack of funding have resulted in mediocre literacy rates, slipping school performance and a serious shortfall in cutting-edge research. In addition, these factors directly affect Canadians' level of education and global competitiveness.

In light of the weaknesses identified by the Canadian Council on Learning, will the government finally acknowledge that the situation is urgent and that it must exercise the leadership required to develop a national learning strategy?

[*English*]

Hon. Marjory LeBreton (Leader of the Government): I have made it very clear in the past that the Canadian Council on Learning is like many programs: They have a beginning and an end; they do not go on in perpetuity.

This particular council was provided with one-time funding of $85 million over five years in 2004; therefore, its funding would have run out in 2009. Our government did extend funding for one more year, to March of 2010.

It is quite incorrect to say that funding was cut. They had an envelope of funding over five years, and we extended it to six.

[*Translation*]

Senator Tardif: I believe the leader did not fully understand my question, which had less to do with funding cuts to the Canadian Council on Learning, and more to do with one of its recommendations.

The lack of a national education coordination strategy and mechanism makes Canada a unique case, while other federations such as Australia, Switzerland and Germany have a permanent federal planning mechanism or a federal department of education.

Given the rather dark picture painted by the Canadian Council on Learning, is it really wise for the government not to join other industrialized countries in acknowledging the need to adopt a national strategy on learning?

[*English*]

Senator LeBreton: I only mentioned the Canadian Council on Learning because Senator Tardif has raised it before and incorrectly stated that the funding was cut.

Obviously, honourable senators, post-secondary education plays a big role in our country's economy. Budget 2011 forgives a portion of Canada student loans for new family physicians and nurses who work in underserved rural and remote communities. Budget 2011 will double the in-study income exemption from $50 to $100 a week, which will help about 100,000 students. Budget 2011 eliminated interest for part-time students while they are studying and improved access to the Canada grants program.

For skilled trades, the budget makes all occupational trade and professional examination fees eligible for the tuition tax credit, and 30,000 Canadians are expected to benefit from this move. We introduced the Canada Student Grants Program, and our Repayment Assistance Plan helped approximately 160,000 borrowers in repayment last year.

Scholarships and bursaries are now tax-free. We introduced the textbook and tools tax credit. We are helping young people get the work experience they need. As honourable senators know, we permanently increased Canada summer jobs by $10 million, or 3,500 additional jobs per year, for a total of about 40,000 jobs for students each summer.

Career Focus helps employers provide recent graduates with internships, helping 2,800 graduates in 2010-11. Budget 2011 provides $20 million to the Canadian Youth Business Foundation.

I think, honourable senators, it is quite incorrect to state that this government does not have a national plan for the advancement of education in our society.

JUSTICE

REPORTS ON COST IMPLICATIONS OF BILL C-2

Hon. James S. Cowan (Leader of the Opposition): Honourable senators, I want to return to an issue I first raised with the leader in October of 2010. It is an issue that I raised in Question Period again on September 27, October 6 and October 25 of this year. The issue had to do with two reports that were paid for, obviously, by the public and that were received by the government in 2009. I asked that those reports be tabled.

• (1450)

The leader undertook on each occasion to consult with her colleague the Minister of Justice. She indicated in September that she would report on it after the Thanksgiving break. When I raised the issue again on October 25, the leader again said she would consult with the minister.

We have heard nothing. I pointed out the last time I spoke about this that we see another crime bill coming through the House of Commons. It will arrive here. We anticipate that there will be pressure exerted on senators by the government to pass this bill quickly.

I said at that time, and reiterate today, that we will do the job that we are sent here to do, which is to examine legislation carefully, including the cost implications of legislation that comes before us. If the government expects us to deal with this matter expeditiously, as it would be our intention to do, why has the leader not complied with the repeated request to table in this house the reports that her government has been sitting on since 2009?

Hon. Marjory LeBreton (Leader of the Government): Honourable senators, I did make a commitment to consult with my colleague the Honourable Rob Nicholson. I have done so and I am awaiting his response.

Senator Cowan: How long do we anticipate it would take Minister Nicholson to decide whether or not he would release a document? Does he not understand that anyone looking at this would obviously conclude that they are not releasing the document because it contains some information that they do not want to have in the public domain? The only way to show that that is not the case is to table the document. How long will the minister take to make up his mind as to whether he will release the document?

Senator LeBreton: As I just indicated, I will consult with my colleague the Minister of Justice.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Claude Carignan (Deputy Leader of the Government): Honourable senators, I have the honour to table the answer to the oral question asked by the Honourable Senator Hubley on June 15, 2011 concerning infrastructure and improved electrical transmission between Prince Edward Island and New Brunswick.

[*Translation*]

Honourable senators, I also have the honour to table the answer to the oral question raised by Senator Sibbeston on June 22, 2011, concerning infrastructure, the MacKenzie Highway.

INFRASTRUCTURE

IMPROVED ELECTRICAL TRANSMISSION BETWEEN PRINCE EDWARD ISLAND AND NEW BRUNSWICK

(*Response to question raised by Hon. Elizabeth Hubley on June 15, 2011*)

> The Government of Canada has been in discussions with the Government of Prince Edward Island regarding a potential electricity transmission line project. The Government of Prince Edward Island has identified this project as a provincial priority for consideration under the Green Infrastructure Fund.

The Green Infrastructure Fund is a merit-based fund which targets projects that will improve the quality of the environment and lead to a more sustainable economy over the long term. Infrastructure Canada is currently considering a number of proposals, including the proposal for this project, for the remaining funding under this program.

The Government of Canada continues to work co-operatively with the Province of Prince Edward Island with regard to their funding request.

TRANSPORT, INFRASTRUCTURE AND COMMUNITIES

HIGHWAYS IN NORTHWEST TERRITORIES

(*Response to question raised by Hon. Nick G. Sibbeston on June 22, 2011*)

The Government of Canada is making strategic investments in infrastructure that contribute to our economy, job creation, a cleaner environment, and strong and prosperous communities. In Budget 2011, the government announced $150 million over five years, starting in 2012-13 to support the construction of an all-season road between Inuvik and Tuktoyaktuk in the Northwest Territories. Long identified as a priority by the Government of the Northwest Territories, this road will connect Canada from coast to coast to coast by extending the Dempster Highway to the Arctic coast. It will also strengthen Canada's arctic presence and contribute to economic and social development in the North.

The Government recognizes the important economic and social benefits of the Inuvik to Tuktoyaktuk all-season road, and remains committed to working in partnership with the Government of the Northwest Territories, the private sector, the Inuvialuit Regional Corporation and local communities to support this project.

The Government of Canada recognizes that the Inuvik to Tuktoyaktuk all-season road is a part of a larger Territorial initiative to complete a 1000 km all-weather road from Tuktoyaktuk to Inuvik and southwards to join the Northwest Territories highway network at Wrigley. In January 2010, in partnership with the Government of the Northwest Territories (GNWT), the Government of Canada provided $3 million toward the completion of a $7-million Project Description Report on the Wrigley to Dempster segment.

Through its infrastructure programs, in particular the Provincial-Territorial Base Fund, the Government of Canada has made significant investments in the North. We are pleased that the implementation of this program in the Northwest Territories has been very successful, and the NWT's allocation under the PT Base of $185.8 million has been allocated to infrastructure priorities identified by the territorial government.

ORDERS OF THE DAY

FEDERAL LAW—CIVIL LAW HARMONIZATION BILL, NO. 3

THIRD READING

Hon. Claude Carignan (Deputy Leader of the Government) moved the third reading of Bill S-3, A third Act to harmonize federal law with the civil law of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

(Motion agreed to and bill read third time and passed.)

[*English*]

STUDY ON USER FEE PROPOSAL

PUBLIC SAFETY—FIFTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Legal and Constitutional Affairs (*The Parole Board of Canada's User Fees Proposal, without amendment, but with observations*), presented in the Senate on November 3, 2011.

Hon. John D. Wallace moved the adoption of the fifth report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with the Parole Board of Canada's user fee proposal.

He said: Honourable senators, I rise to speak today to this report. I want to summarize for honourable senators some of the key elements that are contained in the report. The proposal that was received by this chamber and by our committee from the Parole Board of Canada related to a proposed increase in the pardon application fees, which currently are $150 and were proposed to increase to $631.

The rationale that is expressed in the proposal for this increase is to have the fee result in a full cost recovery of the costs that relate to processing and handling pardon application fees. Currently, this is not done on a full cost-recovery basis.

In that regard, the current $150 does not, for example, cover the indirect costs of processing pardon application fees, nor does it address the issues of what was Bill C-23A, which created new criteria that the parole board would consider when matters involving those convicted of indictable offences were before them. The consequence of both those factors is that there were additional costs in the system that were not being borne by the application and processing fees but, rather, being covered by the taxpayers.

In that regard, in the report we do have the recommendation of our committee, which is that the Senate approve the proposal from the Parole Board of Canada to increase the current fee for processing pardon applications from the current $150 to $631.

The other point I would draw to the attention of honourable senators — and certainly in our committee we see it as an important part of the work we do — is that the fundamental issue we had was to deal with that particular proposal. However, when we hear these matters, if we see opportunities to improve the system going forward, we feel a strong obligation to draw that to the attention, in this case, of the Minister of Public Safety, to the parole board, and of course to our colleagues in this chamber.

Having said that, a number of observations are included in our report. Again, those observations do not relate to the current application that the parole board has submitted. Rather, it is with a view to future applications and ways in which the process may be improved or enhanced. There are a number of these observations and I will touch on them briefly.

First, the obligation requirement that our committee had in reviewing this matter was to make a recommendation with regard to what is referred to as the appropriate user fee. Part of the process required the Parole Board of Canada to identify cost elements that relate to the application. That, of course, was contained in the proposal.

When we examined that, and upon reflecting on some of the testimony we heard, our view was that further detail regarding these cost elements, such as the identification and calculation of those cost elements, should be provided in a comprehensive manner going forward. The basic information provided by the parole board in this case satisfied the act, but we feel that additional, more detailed information could be useful on a go-forward basis.

Second, I would say the User Fees Act applies to more than the parole board, but obviously the fee in this case relates to the parole board. The parole board in this case was required to notify clients and other regulating authorities with similar clientele of the user fee proposal, and that did occur. The parole board satisfied that requirement.

However, as we heard the testimony before our committee, the point was brought home loudly and clearly that there are others, other than the clients — that is, the offenders — who have an interest in these matters. It was our view as a committee that the notification should be more broadly assimilated and should extend to a broader range of the general public, to include not simply this one group of interested citizens but also those who represent victims' rights. In particular, we thought that those who have a strong interest in these matters should be provided with notification of these proposals.

• (1500)

Third, the user fees legislation requires a period of consultation between, in this case, the Parole Board, the clients and others contemplated by the act. We believe that it would be helpful to have a minimum period of consultation set out in the act, and the act would be amended to reflect that. It was our view that a 30-day minimum period would be helpful. We realize that in government there is pressure to move things ahead expeditiously. However, it is important that it be done thoroughly, so the provision of a minimum period of consultation would be helpful.

Fourth, as I mentioned at the outset, the current proposal we considered was on the basis of a full cost recovery approach, in particular, the consequences of Bill C-23A from the previous Parliament which creates new criteria to be considered by the board in the case of indictable offences and to ensure that all direct and indirect costs are covered by the application fees.

There are those convicted of summary conviction offences and those convicted of indictable offences. All offences are serious, but indictable offences are more serious. The time and expense that the board must expend in considering applications is greater in terms of indictable offences. Within the context of still having a full cost recovery model, we thought that perhaps the fees charged to recover those costs could be allocated between those applying for pardons related to indictable offences and those related to summary convictions.

From the information we heard, it would seem that the cost allocation to those convicted of indictable offences would be more, and considerably more, than those convicted of summary conviction offences. This is probably not the way to say it, but, with that in mind, our feeling was that those convicted of summary conviction offences should not subsidize, in terms of the user fee they would pay, those convicted of indictable offences. On that basis, we recommended that the Minister of Public Safety and the Parole Board seriously consider the merits of having a two-tier system. If after doing a thorough examination and allocating the costs between those convicted of indictable offences and those convicted summarily and finding that the difference was nominal, then perhaps a one-fee system would be the answer. However, if there is a wide variance, then perhaps strong consideration of creating a two-tier system would be appropriate.

The committee's fifth observation was related to those convicted of summary conviction offences who later apply for pardons. We heard evidence that for some people the paperwork can be complicated and the process cumbersome. I say that but, in defence of the Parole Board, they do have a 1-800 number and try to be as helpful as they can be to those processing their applications. We heard that many applicants, perhaps the majority, have to hire consultants to help them through the process and handle the paperwork. Those costs can run from $450 to $1,000 per application. We thought that perhaps the Parole Board and the minister could re-examine the process related to summary conviction offences to determine whether or not it could be streamlined — I will not say simplified — to effectively allow applicants to more readily process and deal with their applications to save money. That would still be within the context of a full cost recovery model, because all of the costs in the system would still be allocated between those convicted summarily and those convicted of an indictable offence.

Honourable senators, those were the five observations of the committee. In its conclusion, the report requests that the minister and the Parole Board respond to the committee within a year to provide their reaction to the five observations.

Hon. Hugh Segal: Honourable senators, will Senator Wallace take a question?

Senator Wallace: Yes.

Senator Segal: In the city of Kingston, we have many families who have guests of Her Majesty in one of the federal or provincial institutions who, when they come out, work very hard to rebuild their lives. Obviously, they do so in a way that makes applying for a pardon appropriate, having gone through the period of time necessary. Am I to conclude that the honourable senator's committee is comfortable with the notion that those with more money should have access to pardons on an easier basis than those with less money would have? Further, based on the information provided to the committee, was the actual cost a realistic cost of what that kind of process should involve, or was it an excessive bureaucratic cost, whereby when they find out someone else is paying for it, the numbers go up *mutatis mutandis* over time?

Knowing how thoughtful the honourable senator and his colleagues on the committee are about being fair to everyone, the notion that only those who are a bit better off can apply for a pardon would not be one of the principles that he would embrace with any sense of comfort.

Senator Wallace: Honourable senators, that should go without saying, but it is an important point to emphasize.

A pardon is very valuable to an offender. It enables the person to get employment that they otherwise could not get. Obviously, that is beneficial to them and, as a society, we want to see people move forward with their lives. It is also beneficial to society, because if they are not able to work, then their living requirements back into our social net. It works on both sides of the coin.

We heard testimony on both sides of the issue. In fairness, we heard from some groups representing offenders that the cost would be difficult for some and even prohibitive. On the other side, those representing victims and other members of the public felt that the cost of a pardon is part of the acknowledgment of accountability for the offence, dealing with the issue by paying for it and then moving on.

In terms of affordability, I realize that everyone has different financial circumstances. However, in the testimony we heard, something resonated with me. These pardon applications occur three, five or ten years following release. A pardon is valuable to an applicant and should be planned for. For example, when someone applies five years after, or 60 months, the $600 fee is only $10 per month over those five years. We heard evidence to the effect that when one looks at it on that basis, it should be affordable. In any event, the majority of committee members accepted that.

Senator Segal: Can the honourable senator assure all honourable senators that this will not be some kind of escalating ladder that, as costs go up, the costs of applying will go up, such that a person who served his or her sentence in one of Her Majesty's prisons, had sufficiently good behaviour either to be allowed out at the end of the sentence, or granted parole on various occasions, and works in a blameless way in the community as a citizen doing their best will not have to face, when making application, either (a) the cost of further bureaucratic excess and expense or (b) the implication of a further sentence because the bureaucracy has been wasteful in the way that it manages our funds, not because they have done anything bad while out of prison trying to rebuild his or her life?

• (1510)

Senator Wallace: I thank the honourable senator for that question.

First — and I know Senator Segal would understand this — I cannot stand before senators and make any representation as to the Parole Board of Canada's future applications of the Minister of Public Safety. I obviously cannot respond to that. What I can say, and harkening back to what I said earlier, our committee members were cognizant of the affordability issue as it relates to these pardon applications. That was a major factor behind the observations we made.

We believe the system should be streamlined. For example, perhaps the 1-800 number can be improved so that people are able to complete their applications on their own. We are in favour of driving the costs down and not making it unaffordable. I completely agree with that.

Hon. Jim Munson: Honourable senators, I am interested to know if the honourable senator has any indication from the government, when he talks about a cost recovery — sorry.

The Hon. the Speaker: Senator Wallace's time has expired.

Senator Tardif: We would ask for five more minutes.

The Hon. the Speaker: Is it agreed that he have five minutes more?

Hon. Senators: Agreed.

Senator Wallace: Yes, five minutes.

Senator Munson: I have two quick questions on seriously considering a two-tier system.

First, does the honourable senator have any indication at all that the government will take a serious look at the two-tier system that has been recommended? I believe the issue first came from the honourable senator's side, from Senator Runciman.

Second, I am curious about the full cost-recovery model, which I brought up at the committee. Could this be a template for other full cost-recovery models, for example, getting a passport?

Senator Wallace: Honourable senators, as far as other applications beyond the User Fees Act, obviously I cannot comment and would not comment on that.

There is no question in my mind that the government is very aware and the minister is extremely aware of keeping costs under control. The whole premise of the current application is to allocate costs, in this case to those who receive the benefit. I am optimistic and confident that having a two-tier system, which takes that same principle to another level and looks at those convicted indictably and those convicted summarily, will be looked at seriously.

Hon. Joan Fraser: Honourable senators, I want to thank Senator Wallace for his, as usual, careful, complete, well-modulated discussion of our work. This is not a senator who indulges in extreme language, which is probably a really good thing, but I cannot say that I always fall into the same category.

As Senator Wallace said, this proposal will raise the fee for applying for a pardon to $631. It is less than a year, less than 11 months, since the fee went up from $50 to $150, and now it is to go to $631, which is a quadrupling from the latest number. Of that $631, approximately $400 comes from the new burdens created for the Parole Board of Canada by Bill C-23A, which greatly intensified the demands on the board in terms of the rigours of assessing applications. As Senator Wallace suggested, $631 is indeed the average cost of processing a pardon application; it is not the cost of any specific real pardon application. It is the average.

[*Translation*]

It should be stated from the outset that our committee fully accepted the principle that the pardon is not a right. No one is entitled to a pardon in our system. Interestingly enough, we had at least one witness who indicated that there is perhaps a right to fair access to the process of applying for a pardon. Only one witness spoke about that, and we did not really explore the topic, but it would be interesting to consider it.

[*English*]

If a pardon is not a right, it is definitely, as Senator Wallace has said, a benefit both to the person requesting and maybe getting the pardon and to society in general. The whole purpose of pardons is to enable former offenders to reintegrate themselves properly into society as productive, constructive, participating members of society. In many cases, it is the pardon that enables them to do so fully, that enables them to be employed or to get the educational qualifications they need in order to become what we would all wish all Canadians to be: productive, constructive, participating members of society. It is interesting that the cost-benefit analysis that was done for the Parole Board of Canada did not attempt to quantify the benefit to society of pardons.

We were not given all of the information we might have liked, but we were given quite a lot. In particular, we were given information about the consultation process that the board undertook, as it must, according to law. I must say that I do not remember seeing data from a consultation process that was quite as — here is a strong word — devastating as the responses in this consultation.

The public in general was consulted by the Internet, basically, and 1,086 replies were received, of which only 12 supported this increase in fees. All the rest were opposed. Those who supported the proposal said that a person who commits a crime should be responsible for the fees associated with processing their pardon and that pardons should not be subsidized by hard-working, law-abiding citizens and taxpayers.

The 1,074 who did not support the increase said that it would pose a financial burden for applicants, with many unable to pay. It would make it difficult or impossible for people who need one to apply for a pardon, and it amounted to further punishment to that already imposed by the court.

NGOs were consulted. They said basically the same things, for example, that the proposed increase would seem to be contrary to the goals of rehabilitation and public safety, that the proposed fee increase was considered punitive, and that applicants had already paid their debt to society by satisfying their sentence and remaining crime free for the required number of years, from 3 to 10 as Senator Wallace said, before they even applied.

Government departments and agencies were consulted, such as the RCMP, Justice, and the Federal Ombudsman for Victims of Crime, and they too said that such a large increase would pose a financial burden and impediment for many potential applicants who are trying to reintegrate into society. They said this increase might have a potential negative impact on women and Aboriginal people. They suggested that a waiver of the fee could be considered in certain cases, and they also raised the possibility of Charter challenges as a result of this increase.

In addition to the consultations, some complaints were received. By law, when a complaint is received about a user fee, an independent advisory panel must be struck, and one was struck in this case, including, obviously, a representative of the government. That panel's recommendations were not all unanimous, but here are some of the ones that were unanimous: That the Parole Board of Canada maintain the current $150 fee and that the government provide sufficient resources to meet any costs above and beyond that; that the government review the act to include a mechanism for waiving fees for disadvantaged or low-income applicants while ensuring adequate funding; that — and I thought this should be a no-brainer — for the preliminary review of each application, only a $50 fee should be charged, not the whole $631. That makes sense, particularly since we know that something like 40 per cent of applications received are rejected for technical reasons, such as the form not being filled out properly, before the merits of the case are ever considered. Finally, the independent advisory panel recommended unanimously that the government not base its practices on the principle of cost recovery.

• (1520)

One of the interesting elements was, as Senator Wallace noted, that the consultation did not include victims of crime or their representatives. We heard in committee, as Senator Wallace said, from representatives of victims of crime who felt very strongly and understandably that they should have been part of the consultation process. It is easy for all of us to understand why they might feel that way, although, strictly speaking, victims are not directly pertinent to this process since this process involves pardons rather than the actual victimization of people.

It pointed out to me something that became increasingly clear through our work, namely, the problem with the word "pardon." The word "pardon" — et en français pardon — implies forgiveness. There is a problem with ascribing to a state agency the capacity to forgive. Forgiveness is, except in the very rarest of circumstances, not a state matter; it is a very personal matter. Therefore, honourable senators will all be astonished to hear that there is an element of Bill C-10, now before the House of Commons but presumably on its way to us, of which I approve. Bill C-10 will drop the use of the word "pardon" and will substitute the phrase "record suspension," a phrase comparable to language used in numerous other jurisdictions. I think it does help to clarify the concepts about which we are talking. We are

not talking about forgiveness; we are talking about people who have kept their record clean for the requisite number of years and now wish to be enabled to become more fully participating members of society.

It was, as Senator Munson noted, Senator Runciman who first and most consistently through our hearings drew our attention to the basic notion that it is not fair to charge the same very high fee to someone who has been convicted on summary conviction on some minor peccadillo, such as passing a joint when he was 19, to someone who has done something horrendous, such as manslaughter. There is, of course, no pardon for murder. However, after 10 years, one can apply for a pardon for manslaughter. Why should those people who impose vastly different amounts of work on the Parole Board of Canada to process the application have to all pay the same fee?

[*Translation*]

Consequently, the committee recommended that the minister and the board seriously consider the possibility of establishing a two-tier user fee system. An offender found guilty of an indictable offence would not pay the same fee as an offender found guilty of a summary conviction offence. That seems to be a fundamental element of justice and I hope that the government will follow up on our observation.

Unfortunately, we were not able to make a recommendation on the appropriate fees because, as Senator Wallace said, we did not have the numbers. The board told us that the numbers were not available.

[*English*]

I strongly believe that the numbers can be got and should be got soonest and should have been available to our committee as part of its work.

There are other elements that I personally would have liked to see. I personally would have very much liked to see either a provision for a waiver of fees of very low-income applicants, possibly people on welfare, or something like a repayable advance, something like student loans, that might be used to cover the costs of pardon applications for people whose need is evident.

We were told by a number of witnesses that for some people, notably those on welfare, the saving of $631 will be an almost superhumanly difficult, not to say impossible, task. Indeed, in some jurisdictions the mere fact of saving that money would mean that your welfare payment would be reduced or clawed back, which seems so counterproductive as to be almost impossible to understand.

In answer to Senator Segal's question, is this the real cost, it would appear that it is almost the real cost. According to the information we have, all the government people who were consulted and who understand these things say that the costing was done impeccably according to Treasury Board guidelines. However, there are some ninety-odd dollars of more indirect costs that were not included.

Will it keep going up? That is hard to say. There is more legislation coming that will impose fresh requirements on the Parole Board of Canada. However, should it sensibly adopt our recommendation to streamline its processes, it might save a great deal of money doing so, particularly if it went to a properly designed two-tier system.

Honourable senators might be interested to know that the Canadian Taxpayers' Federation, which is hardly a member of the standard bleeding heart community, told us, via its representative, Mr. Thomas, that he would never attempt to fill out the board's form for the application for a pardon fee because it was just too complicated, rather like tackling income taxes if you have anything complicated to file.

Honourable senators, our committee was not, as you will have gathered, unanimous in the basic recommendation that the fee rise to $631, but the committee voted and that proposal carried. Therefore, when we turned our mind to observations, we did work quite hard to achieve observations to which we could all subscribe in light of the vote that had already been taken. I think the observations that we have attached to our report make eminently sensible suggestions for the government and for the Parole Board of Canada as they go forward. I regret that we are where we are, but, as Senator Wallace suggested, I do hope that going forward things will improve.

[*Translation*]

Hon. Pierre-Huges Boisvenu: Indeed, the committee had a tough and serious job. We learned some interesting things that were new to me, even though I have worked in this area for nearly a decade. Between 97 per cent and 99 per cent of people who apply for a pardon receive it. That is very high.

I was also surprised to learn that, in 2001, 9 per cent of criminals applied for a pardon through a private firm. In 2010, this figure was estimated at 75 per cent.

[*English*]

The Hon. the Speaker *pro tempore*: I regret to advise that Senator Fraser's time is up.

Senator Fraser: May I have five minutes?

The Hon. the Speaker *pro tempore*: Is more time granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Please continue.

[*Translation*]

Senator Boisvenu: In 2010, approximately 75 per cent of people who applied for pardons paid up to $1,000 for private firms to handle their cases. Yet the federal government offers this service for free. There is a contradiction between contesting an increase and paying for a large part of it.

The testimony that surprised us the most was from Sheldon Kennedy. You remember this story. He is the hockey player who was sexually abused by his coach for several years. In his very touching testimony, he said that we should treat criminals and

victims equally. Victims get very little compensation in our system. If criminals are incarcerated and they work, they receive a salary. If they study, they receive a salary. The victims are often forgotten.

My question has to do with something Mr. Kennedy said. Is paying the full cost of a pardon not the criminal's last step in taking responsibility for the crime committed against society — what we call paying one's debt to society, and to the victim?

• (1530)

Making offenders assume all or most of the costs is not a way to make them accountable.

Senator Fraser: That is a more than legitimate point of view, but I do not quite share it. For the purposes of our observations, all committee members accepted the principle of full cost recovery, but perhaps they did so for various reasons. Some, like Senator Boisvenu, no doubt accepted it thinking that it is the last step in the process for making the person seeking pardon accountable. Others, like me, accepted it mainly in light of the current budget cuts. I can easily accept the idea that this is not a priority for a government that must try to control costs in general, as is currently the situation.

However, one of the problems is that the victims of crime are often scarred for the rest of their lives; there is no doubt about it. Very often, even today, although things have improved, the victims are forgotten at the beginning of the process, during the trial of the person accused of committing the crime. At a certain point, the victims' involvement becomes much less relevant than the involvement of society in general and that is why, if we did not have this budget problem, I would have accepted the idea that, since a pardon or record suspension is beneficial or advantageous to society in general, society in general should also cover part — not all, but part — of the costs of that pardon.

Hon. Pierre Claude Nolin: In his question, Senator Boisvenu raised the issue of restitution to victims. In order to complete the very eloquent response that he gave, could Senator Fraser tell me whether the committee was informed that, in certain provinces — or at least in Quebec —.funds are given to victims as restitution for the harm that they were caused, even if that compensation is not necessarily equivalent to the degree of harm the victim suffered. Was the committee aware of this?

Senator Fraser: That is a very good point. The committee was informed of this in the context of other studies but, this time, it was not really. However, this is certainly part of the general, overall picture that must be taken into consideration during such studies. It is the case in some provinces but not all. That is one of the difficulties we are encountering when trying to find a system that is fair for everyone.

[*English*]

Hon. Serge Joyal: Honourable senators, I would like to follow up on this debate, especially since the question raised by the Honourable Senator Segal met the concern that I expressed at the committee. I took part in the meetings of the committee reviewing this issue.

I listened carefully to the experts and witnesses we heard, as much on behalf of the group of victims as on behalf of the offenders. There was one aspect that remained of concern to me when I left the committee and when we voted on the report that Senator Wallace has ably commended in his opening remarks today. This is about the group of offenders who find themselves in the lower tier of society, mainly Aboriginal peoples, who are overrepresented in our prison system, and women who are also overrepresented in the prison system. Most of those offenders do not find themselves in the 75 per cent that the honourable Senator Boisvenu mentioned who have the capacity to hire a private firm and pay for both the pardon fees and the fees of professional advisers to file the forms. As Honourable Senator Fraser mentioned, even the representative from the Canadian Taxpayers Federation would not want to file those forms himself. In other words, the paperwork is pretty heavy. One recommendation of our committee was, essentially, to alleviate that paperwork, especially for a group of offenders who find themselves convicted for misdemeanors or under some conviction procedure.

I remind honourable senators that more than three million Canadians find themselves with a criminal record. That is ten per cent of Canadians. We are not talking about two or three people; we are talking about a large number of Canadians who find themselves, one day in their lives, needing to fully integrate into society and to complete the pardon procedure.

Of course, these people include those who have no means, who live on social assistance, or who are deprived of any kind of help to complete that kind of reintegration, after which they expect to have a normal life. It is the responsibility of those people to seek a pardon, but it is also our responsibility to know what the impact of the increase of the pardon fees to $600 or $631 will be.

At the committee, I suggested that we ask the department to monitor the impact on pardon requests in future years, to identify whether or not those people who might be wrongly affected by the increase are in the context whereby this is of concern and should be addressed.

It is of concern to me because we were informed in the committee that Ontario has a service to provide assistance to people living on social assistance, but that, in Manitoba, this is done on a case-by-case basis. In Newfoundland and Labrador, as well as in New Brunswick, this is also available to those on income assistance. However, in British Columbia, Alberta and the Northwest Territories, there is no such system.

In other words, we are in a checkerboard situation, whereby in some provinces a person who lives on public support will have some assistance and, in other provinces, he or she will not. In some provinces, it depends on the case and all kinds of circumstances.

The Canadian Bar Association wrote to the committee, and I would like to put on the record their views in relation to that group of people. I quote from their submission dated October 18, 2011.

> The process of obtaining a pardon is neither quick nor easy. Even a modest fee may impede some from applying for a pardon. Financial inequities should not be used to make

> pardons less available to those with little or no money. The proposed increase in fees at four times the current fee level may well prevent those who need a pardon the most (for example, to obtain employment) from applying. Instead, we suggest that the fee might be waived for impecunious applicants. If certain types of pardon applications are more costly to process, a multi-tiered fee system might be fair, again with the possibility of waiver based on financial ability.

In other words, the bar also identified that as a major preoccupation. That preoccupation was also very well spelled out in Recommendation No. 2 from the advisory panel that, under the User Fees Act, the Parole Board has to study, and to make recommendations following the proposed increase to the Parole Board.

• (1540)

I would like to quote Recommendation No. 2 from the advisory panel:

> Since the current legislation does not allow the parole board to vary user fees according to the financial situations of individual applicants, it is recommended that the government review the act to include a mechanism for waiving fees for disadvantaged or low income applicants while ensuring that the parole board still receives adequate funding.

In other words, honourable senators, to put it broadly there is concern in civil society about the impact of those increases. I suggested to our colleagues on the panel that the Parole Board of Canada should study the impact of that increase on those groups that are disadvantaged — of course, it is mainly Aboriginal people and women who are the first target of poverty in our system — in the context of having them fully integrated.

Unfortunately a majority of the committee did not want to include that concern. I use my privilege as a senator to share it with you. It is very important because it has a legal implication, which is that the system can be challenged in court on the basis of section 3 of the Canadian Human Rights Act. It states:

> For all purposes of this Act, the prohibited grounds of discrimination are race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability and conviction for which a pardon has been granted.

In other words, as Senator Fraser has mentioned, a pardon is not a right, but access to pardons should be equal for any Canadian. To deprive someone of a pardon and expose that person to discrimination on the basis of a criminal record — and not being able to get a pardon — could, in my humble opinion, open a case in court.

It would also be under section 15 of the Canadian Charter of Rights and Freedoms whereby everyone should benefit equally from the law. When a person is deprived of being protected from discrimination because of a fee and no assistance to get the pardon, I think that is their opening for a case in court.

It might not be the last word we hear about the increase of fees if there is no modulation for a group of Canadians who cannot access the system. We know who those people are. I am looking to my colleague Senator St. Germain, who will understand the difficulty of filing a form for someone living on a reserve, trying to get a pardon and not having the $600 in their pocket to get it. How can we expect someone who is close to being illiterate to file a form of X number of pages and questions to seek a pardon and pay $650 over and above that? We have to be concerned about that.

When I listened to our witnesses, I thought that a majority of members on the committee should have reflected that concern because it is there. Of course, we can put a blindfold on our eyes like the justice goddess and think it does not exist, but it does exist. I, for one, was concerned that in future years the Parole Board of Canada could identify that problem and report its impact to us and how we could improve the system so that Senator Segal's concerns could have been better addressed.

Senator Segal: Could I ask my colleague a question?

The honourable senator made reference to the 10 per cent of Canadians who have criminal records. Independent of that 10 per cent — in the work that was done by the Standing Committee on Social Affairs, Science and Technology under the chairmanship then of Senator Eggleton — we talked about the 10 per cent of Canadians who live beneath the poverty line. These are not necessarily the same Canadians. However, we do know that the 10 per cent of Canadians who live beneath the poverty line constitute the source of 85 per cent of the guests of Her Majesty in our various federal and provincial facilities across the country.

Could the honourable senator share with us his own sense of the extent to which the committee visited the proposition that — and I am sure this is not anyone's intent — the actual, practical result could be a 400 per cent increase in the cost of a pardon for the poorest of Canadians *ab initio*?

Senator Joyal: Again, honourable senators, the committee has not gone into a full investigation or study of that impact. That is essentially what I wanted personally, so that the Parole Board of Canada could come back to us with that study in the future. We would be better positioned to understand the unintended consequences that the increase of pardon fees would have on the 10 per cent of the lowest tier of Canadians.

It is illuminating that with respect to total pardons granted on the basis of various criminal offences, theft under $200 applies to almost 8,000 Canadians. Who steals for less than $200? Not the big bank robbers and not the white collar offenders, but rather the lowest level of people who steal to eat, for instance.

It is the same in relation to other offences normally committed by people who are desperate in their conditions. I am not talking about those driving with a blood alcohol content higher than 0.08 per cent. Senators would be interested to know that 67,000 Canadians have criminal records. It is the highest level of those who have a criminal record and would seek a pardon.

Among those who drive, there are the drivers of Mercedes and BMWs, but among those people there are those might be — in an economic context — totally out of sync with the representation that all the criminals are well gifted. We must understand that if 3 million Canadians have a criminal record, some of them are rather desperate people. I think it is fair for us, in the Senate, to reflect upon those people. Unfortunately, we were not in a position to report on the impact. I had hoped to include that observation in our report. It did not happen, but I hope that the people who read our debates today will take into account your concern, my concern and the concern expressed by other senators and will follow up on it. I think it is a very serious issue, one that touches those groups of Canadians that are most in need of economic support and are in social distress.

Hon. Gerry St. Germain: Will Senator Joyal take a question?

Senator Joyal: Yes.

Senator St. Germain: The question relates to the complexity of the documentation that will have to be completed. We have arrived at a stage, government after government, where it is next to impossible to fill out your own income tax return unless you take a course.

I think this observation on the complexity of the documentation that will have to be completed is valid. I know the constituency the honourable senator is referring to is our Aboriginal peoples. Is Senator Joyal prepared to make an observation by way of a minority report from the committee, or are we past that stage now?

The Hon. the Speaker *pro tempore*: Honourable Senator Joyal, before you respond to the question, would you like to ask for more time to respond?

Senator Joyal: Yes, honourable senators, I would like more time.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

• (1550)

Senator Joyal: Thank you, honourable senators. In fairness to the conviction of all senators on the committee, and I think Senator Wallace has been eloquent on this, the committee was concerned about, as Senator St. Germain said, the insurmountable obstacle that filling out those forms sometimes presents for almost anyone. The committee made a recommendation to the effect that there be a streamlined procedure, especially for those Canadians who find themselves facing a misdemeanour or summary conviction offence, so that it could be processed more quickly at a lower fee. That is why the committee also recommended that there be a variation on the basis of the amount of money that the bureaucracy will need to invest in the studying or the processing of a file.

You will easily understand that if someone who has stolen less than $200 has to file a 10-page form and it has to be processed by the parole board, it is not the same amount of time, effort and investigation as for someone who has stolen $1 million from a bank, for instance, and is in the professional milieu of processing the money of other people. In that context, the parole board will want to study the matter in greater detail than in the case of someone who has stolen less than $200.

The committee was concerned about that and we made those two recommendations, including one to streamline the form, and especially to adapt it to the two-tier level that we would want to see. That partially addresses the preoccupation of the honourable senator. Again, that would not totally answer the preoccupation because someone who is almost illiterate will find him or herself incapable of filing those forms. That is why, again, the groups that came before us, such as the John Howard Society, wanted to see additional support for those people because, again, it is in the interest of Canadian society to have those people fully reintegrated. Sometimes we have to give people a hand to bring them to that level. I thought the recommendation I suggested would help us to go in that direction.

Hon. Wilfred P. Moore: May I ask a question of Senator Joyal?

The Hon. the Speaker *pro tempore*: Yes, please.

Senator Moore: I am not sure if this question fits within the mandate of the study of the committee. I am informed that Canadians who have a criminal record and have received a pardon, or even have gone to court and had their record expunged, when they attempt to enter the United States of America the United States border services agency denies them entry. Did this issue come up in the course of study, and are applicants for parole aware of that, and whether or not, if it did come up, there has been any discussion about the possibility of our government speaking with the appropriate U.S. authorities to have decisions of our courts and of our parole officials recognized by that jurisdiction?

Senator Joyal: I thank the honourable senator for the question. Our mandate was not to review the overall functioning of the parole board system. As Senator Wallace mentioned, we were requested according to section 5 of the User Fees Act, which allows Parliament for a very short period of time to review the proposed increase. That is not the functioning of the system, just the proposed increase, and if by D-Day we have not reported to Parliament, the increase is presumed adopted. In other words, we had a limited number of hours and opportunities to review the issue. It was not, again, a full general mandate. Senator Cools has raised this issue many times, to review the parole board. I remember when she was a permanent member of the committee she wanted to review it. Maybe we will have an opportunity in later months to do so, but at this stage we were not invested with the mandate to review that and proceed with the question that you raised.

Hon. George Baker: Honourable senators, I have just a word on that particular subject. The Criminal Records Act is affected by a parole. Section 6.1 of the Criminal Records Act and 6.1(2) of the Criminal Records Act says that a parole by the parole board or a discharge by a court, the record of that held by the commissioner or any federal government department or agency shall not be released.

The problem is that if the record exists with a provincial police force or a provincial government department, the Criminal Records Act does not extend jurisdiction over provincial courts,

provincial departments, provincial agencies or provincial police forces. Of course, if you receive a royal pardon, with cabinet making the decision, which we have many each year and which are held in secret, that expunges your entire record so that the event never happened and by law it can never, ever be recognized again, as you know, but this is an administrative pardon.

Consequently, the honourable senator is absolutely correct that in certain border crossings where information is held in the computer from a provincial police force, the record will always be there. Even a charge will prevent someone from crossing the border into the United States with their recent activities.

Honourable senators, the act we are talking about is the User Fees Act. A requirement of that act is that whoever is asking for an increase in fees shall do a list of things, and one of them is to compare the fee for a similar service in another country that is comparable. The incredible evidence that was given to this committee was that there is no nation in the world that has a similar system that could be identified as being comparable to the system we have in Canada.

All of the witnesses said that in the United States, for example, there is an automatic expunging for summary conviction offences or hybrid offences, which can be determined by dollar amounts. Senator Joyal identified a dollar for stealing, a dollar for fraud. Fraud is now above or below $5,000. Below $5,000 is summary and above $5,000 is indictable. For stealing, below $1,000 is summary and above $1,000 is indictable.

No other nation in the world has our system. When you look at the figures and you see that 10 per cent of Canadians have criminal records, 15 per cent of voters in Canada have criminal records, it is off-putting because no other nation in the world has those figures. That was the evidence before the committee.

Perhaps we should be assigning a committee of the Senate to examine the entire system of criminal records and how they are treated in our society.

Hon. Daniel Lang: Honourable senators, I would like to let members know that there was a very thorough hearing process that took place in respect of looking at the question of cost recovery and its implications.

• (1600)

I want to remind all honourable senators that this is not new to this house; we dealt with the principle here at the beginning of last year, with the initial step forward of increasing the cost of a record suspension from $50 to $150, and with the full knowledge that at some later date they would be coming back to us to look at what the full cost recovery for applying for a record suspension or pardon would cost.

We did get those numbers; they were presented to us. The point I want to make is that I felt that the cost recovery of individuals coming forward, whether it be after three years or five years or ten years, should be their responsibility, not that of the state. I can stand in my place here and assure all members that the general public has no idea that up to today they were paying for virtually the full cost of an individual's cost to apply for a pardon and receive one.

My good friend, Senator Fraser, refers to the public consultation that was done and had to be done by the Parole Board. There were 1,068 opposed to any cost-recovery method in principle and 12 against.

I submit to honourable senators that only about 1,100 people had, in one manner or another, access to this particular public consultation. When Senator Baker, myself and the rest of the committee had the victims' groups appear before us, it was very interesting that their views had not been requested.

Senator Fraser said earlier in her comments that the victims' organizations were not really involved in this final step in the judicial system from the point of view of the individual finally applying for and receiving a pardon. I disagree with that. I think the victims' groups and victims have every right and should be notified when those individuals apply for that final step to go back into society.

One of the other senators pointed out that in some provinces there is compensation for victims of crime, and yes, there is, in most provinces. However, the point that was made to the committee was that the organizations for victims of crime are not funded by government. Yet all these other organizations representing the offenders are getting millions of dollars to run their organizations. I submit to you, I do not think that is right.

That is one of the reasons pieces of legislation like this are coming before the Senate and the House of Commons: The judicial system has gone so far the other way on behalf of the offenders that they have forgotten about the victims. They have forgotten about the people who have been violated and who will carry scars for the rest of their lives. We stand in our place and say, "oh, what about the offender? Can he or she pay for the final step, that right, that privilege to expunge their record that the taxpayer should pay for?" I will submit to you that I say no; I do not want to pay for it, and I will tell you most Canadians do not want to pay for it, either.

The other point I want to make is that no one talks about the volume of money here. This is $8 million. I recognize it is chicken feed when you talk about the billions for this and the billions for that, but it is $8 million of Canadian taxpayers' money that will not have to be paid toward this particular program because the individuals will take accountability for their actions. This is part of it.

Probably one of the most poignant moments during our hearings was when Sheldon Kennedy, the hockey player who was so violated his life has been scarred forever, appeared before our committee. He said when one is applying for a record suspension, one has the responsibility to pay for it.

The other point I make about $631 is that it is not $650; it is $631. For someone who is applying for a record suspension after 10 years, that is basically $6 a month. If one applies for a suspension of record after five years, it is $10 per month.

Let us put this in perspective from the point of view of the individual and their responsibility. I do not buy this statement that was made once in our committee that a social assistance

program will go into someone's bank account and claw it back because they are saving for a record suspension. Surely we have enough faith in our provincial counterparts that common sense would apply.

I want to come to another couple of points, if I could, honourable senators. It is important to realize that the report that is before you refers to a bill that says, if at any given time there will be another increase or an escalation in cost, it must come before us once again. It is not a case where all of a sudden this goes into the morass of government and costs are continually added on to what we have already agreed to here. All honourable senators will get a chance to review it, analyze it and see exactly where this is taking us.

I do not think anyone here wants to make it so onerous financially that it negates individuals applying for a record suspension. At the same time, I think there is a fair feeling — I would like to think among most of us — that individuals have a responsibility to pay for it as long as it is reasonable. I for one feel that $6 or $10 per month is a reasonable price to pay for an individual to obtain their record suspension.

From my perspective, I think we had a full hearing. I think we all learned a lot. I think the Parole Board learned a lot. Regarding one of those recommendations with respect to the question of the web page for applications, I am hoping they got the message that they need someone — maybe not from within the Parole Board, but someone from the street who understands common English — to go through it and make it so people can apply in an expeditious manner.

We also heard, honourable senators, during this thorough hearing, that, as my friend Senator Boisvenu pointed out, over and above what they are paying to apply for their record suspension, individuals are also paying up to $1,000, maybe even more, for a broker to try to put them through the process. I think that is a legitimate area of concern, and I think it is an area that we have to rectify. There is no reason why those forms cannot be simply put and made available to the individual so they feel comfortable in processing it and going through the process.

I want to conclude, honourable senators, that I feel we are doing the right thing; it is the right thing by the taxpayer.

Hon. Tommy Banks: Honourable senators, it is the right thing, obviously, because the process has been done quite properly, and I think we have had a full exposition by Senator Wallace and by Senator Fraser in particular of what happened in the committee.

However, we have to remember, honourable senators, that there is cost recovery and there is cost recovery. In China, when a criminal is executed by a firing squad, the bill for the bullets is sent to the family of the executed individual. That is cost recovery.

We could say that the costs, as Senator Mitchell has pointed out, of a trial ought to be borne by the criminal.

Senator Mitchell: Why not the whole thing?

• (1610)

Senator Banks: Any time you do a cost-benefit analysis, the veracity or use of that outcome depends on what goes into the hopper at the beginning of it.

The most important thing for us all to remember is the recommendations to which both Senator Wallace and Senator Fraser referred and the fact that we have asked that the government respond within a specific time to those recommendations.

Senator Segal raised the question of further possible increases. As Senator Lang has said, if such an increase would have to come before us again according to the User Fees Act — I will not be here when that happens — there is a thought that I hope will be borne in mind.

Honourable senators, I have never experienced being a victim of a crime, so I do not have the understanding that Senator Boisvenu has of that side of things. I certainly do not have the years he has put into dealing with victims of crime.

There is a thought — we have heard some reference to it — that the question of the cost of applying for what will now be called a record suspension is a part of the responsibility borne by a convicted criminal, part of the — if I can use the word — punishment. Honourable senators will have to be careful, when considering this a year from now, to draw a line between punishment and the cost-benefit analysis of getting someone back into society.

I subscribe to the idea that when a criminal is convicted in a court that court provides, in the sentence, society's view of what that criminal ought to pay for his or her act, the act for which they have been convicted.

I do not think that we ought to — there are opposite views; you have heard them from Senator Lang, from Senator Boisvenu and others — say, in addition to the sentence imposed by the court, there is another sentence at the other end of the stick that will come later that no one is thinking about at the time of the trial. That is an additional punishment, an extension, if you like, of that sentence. That is a cost which, as we have heard, has quadrupled. The cost had tripled when the committee first dealt with that question months ago and has subsequently quadrupled. Therefore, it is reasonable to assume, on the basis of what happened before will likely happen again, that we will see more cost recovery. Parliament has now accepted the principle of cost recovery. There is a precedent here that has never been done before with respect to what will be called the suspension of records.

I hope, honourable senators, that when this matter is considered in future, either when a further request is made to increase the fees or when the government responds to Senator Wallace's message to them, that we will try to define whether the costs for applying for a sentence suspension should be thought of as a part of the punishment or responsibility of the convicted criminal or whether the courts, and the courts alone, impose sentences upon convicted criminals.

Hon. Anne C. Cools: Honourable senators, I wanted to pose a question. It might be a little late to ask a question, but I have been listening to the debate and have had some difficulty understanding the ground on which these proposals are

standing. I have been struggling to discern the principles that the proposers of this matter are relying on for their conclusions. I was listening with special interest to Senator Lang. I would be happy if anyone would like to answer my questions.

Honourable senators, I am very interested in the principles because I have always understood that the business of parole and the business of pardon have nothing to do with the phenomenon of innocence, guilt or punishment. That has been my clear understanding, that the courts determine innocence and guilt, and declare a sentence, issue the warrants, and then that inmate serves the period of time on that warrant until the day that warrant expires, the end of the sentence.

I was always under the impression that when one comes into the field of parole and pardon, one knows that those individuals were guilty and sentenced and are serving or have served. At that point, moving forward, when we come into what we call the clemency powers, the mercy powers, they are not about punishment, because the debt to society has been paid.

I have not followed this discussion. I am not on any committee; everybody knows that. It is a privilege I do not have, so quite often I am not aware of these questions until they are sprung before me.

Honourable senators, I wonder if someone could explain to me how these principles have been altered so fundamentally, so suddenly, without debate, without consideration and study. Pardon, parole and remission, and that whole bundle of law, is all about Her Majesty's clemency and pardon, which does not include punishment in any form, either financially or otherwise.

I would like someone to clarify what the principles are because, from what I have been hearing, we are not dealing with pardons or clemency; we are dealing here with a tax.

I will take the adjournment and finish my remarks. I was hoping someone would try to answer.

The Hon. the Speaker *pro tempore*: Senator Chaput had been on her feet and wanting to speak. I actually saw Senator Chaput before you began to speak.

Senator Cools: That is fine. Consider it my question awaiting an answer suspended.

[*Translation*]

Hon. Maria Chaput: Honourable senators, I have been a member of the committee for several years. I have two concerns that I would like to share with you today. My first concern pertains to cost or expenditure recovery. I am not opposed to cost recovery — quite the contrary. However, after listening attentively to the witnesses, I am unclear about how they determined that the user fee should be $631 rather than $650, for example. Based on the explanations I received and the documents I read, I am not sure that they truly answered all the questions related to how they arrived at the figure of $631. I am also not sure that they will not come back to the committee, possibly in a year or a year and a half, and tell us that the cost recovery amount was much higher than they anticipated and that they are now asking for *x* amount of dollars. So, that is one of my concerns.

The other concern that I want to share pertains to the complexity of the form. Some honourable senators here today pointed out that the form that needs to be completed is very complex. We heard a lot of talk about this in committee. It is important to remember that it is a right to be able to ask to complete the form but it is then a privilege to be granted what I will call a pardon, even if that is not the correct term.

In order to have the right to complete the form, a person must be capable of doing so. I remember that witnesses gave the example of Newfoundland, where a fairly high percentage of applicants started filling out the form but then abandoned their efforts.

• (1620)

When we asked why this was, we could not obtain an answer because no statistics were kept in this regard. I therefore wondered why such a high percentage of applications in Newfoundland were abandoned. Was it because the form was too complex? Were these applicants unable to afford to pay someone to complete the form, as many others were doing? I did not receive answers to these questions either.

I am pleased to say that this concern about the complexity of the form is found in our recommendations.

[*English*]

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It has been moved by Honourable Senator Wallace, seconded by Honourable Senator Plett, that this report be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Senator Tardif: On division.

(Motion agreed to and report adopted, on division.)

CONFLICT OF INTEREST FOR SENATORS

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—SECOND REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the second report of the Standing Committee on Conflict of Interest for Senators, (*budget—mandate pursuant to rule 86(1)(r)—power to hire staff*) presented in the Senate on November 3, 2011.

Hon. Terry Stratton: Honourable senators, I move the motion standing in my name.

The Hon. the Speaker *pro tempore*: On debate?

Senator Stratton: No debate. Question, please.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

STUDY ON CURRENT STATE AND FUTURE OF FOREST SECTOR

SECOND REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Mockler, seconded by the Honourable Senator Wallace, for the adoption of the second report of the Standing Senate Committee on Agriculture and Forestry entitled: *The Canadian Forest Sector: A Future Based on Innovation*, deposited with the Clerk of the Senate on July 5, 2011;
>
> And on the motion in amendment of the Honourable Senator Robichaud, P.C., seconded by the Honourable Senator Mahovlich, that the motion to adopt the report be amended by adding the following:
>
> > "and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government, with the Minister of Natural Resources being identified as minister responsible for responding to the report".

Hon. Nicole Eaton: Honourable senators, I am pleased to rise today to add my comments to the debate on the motion to adopt the Standing Senate Committee on Agriculture and Forestry's second report.

As speakers before me have indicated, the committee welcomed many witnesses who represented sectors from wood chip farmers, to pulp and paper producers, to manufacturers, to economists and educators.

In the course of our deliberations, we heard both very negative forecasts and very positive perspectives. I certainly came away cautiously optimistic that, with a tremendous amount of work, our forestry sector can return to its historically prominent position in Canada's economy and in our communities.

To this end, our government has made unprecedented investments to renew Canada's forestry sector. In fact, in the last two years, our government has put more resources towards Canada's forestry sector than the previous government spent in five, and it is bringing results. For example, today there are 13,000 more jobs in the forestry sector, and we enjoy a 600 per cent increase in softwood lumber exports to China.

The Government of Canada continues to address the challenges facing the forestry sector and the workers and communities that depend on it. Budget 2011, *The Next Phase of Canada's Economic Action Plan*, provides $60 million over one year to support the transformation of the forestry sector. The government is focusing on the development of new markets and emerging technologies and products that will help improve the competitiveness of Canada's forest industry.

The measures included in *The Next Phase of Canada's Economic Action Plan* complement previous and ongoing federal initiatives that are helping to ensure that Canada's forest sector can continue to provide high-quality jobs. For example, the $1 billion Pulp and Paper Green Transformation Program lays the groundwork for a greener sector by providing pulp and paper facilities with funding to improve their environmental performance.

The Transformative Technologies Research Program —

Senator Mitchell: Is that a Liberal program?

Senator Eaton: No. — supports the development of emerging technologies. The $25 million to continue the work of the past four years was recently announced.

The $40 million Transformative Technologies Pilot Scale Demonstration Program supports the development of emerging Canadian forest products and processes.

The $100 million Investments in Forest Industry Transformation program supports the commercialization of innovative technologies that will lead to a more diversified forest sector.

However, honourable senators, I cannot resist using a well-known adage: Sometimes we cannot see the forest for the trees.

Last week, Senator Robichaud raised a particularly important dimension of our study, that of education. We heard over and over again from educators, researchers, architects and engineers that there is a huge gap in instruction on the use of wood in construction at universities all across Canada. This is especially true for non-residential construction.

While in Europe the use of wood in non-residential construction is commonplace, here in Canada it is rare and cumbersome. Part of the reason lies in lack of instruction in the use of wood at the university level. Part of the reason can be traced to building code restrictions, and another part of the reason is a direct result of prejudices and myths concerning wood held by the public.

The reality is that in Canada, building codes lag behind the times and the trends. Often authorities must be forced, kicking and screaming, into recognizing new building methods and materials that have long become routine in other jurisdictions. Add to that the fact that there are multiple tiers of building

codes — one federal, twelve provincial and territorial, and thousands of municipal codes — so changing a code can require a Herculean effort.

One obvious way to resolve this problem in Canada is to foster a wood culture that promotes the use of wood and makes it attractive as a non-residential building material. This, in turn, would encourage the building industry to demand more flexibility in building codes that would permit such construction.

As the report points out, to successfully establish a true wood culture, the Canadian forest industry must address public doubts about the "tree killer" syndrome weighing on the industry. The industry must sweep away fears about the fire resistance of manufactured wood products and their inaccessibility to the general public.

Sadly, in an odd way, wood is one of Canada's best-kept secrets. Wood is a smart choice. Wood is a renewable and sustainable resource. The advantages of wood make it a very attractive construction material. Its characteristics from the standpoints of environment, physical resistance, versatility, fire resistance, aesthetic appeal, insulation capability and economic value are astounding. For example, did you know that one room built from wood sequesters an entire year's worth of carbon emissions from the family car? Therefore, the obvious place to start is in academe.

During the course of the study, I was surprised to learn that wood does not receive a lot of curriculum hours in schools of engineering, architecture and design. However, the fault is not all with universities. The concrete, steel and iron industries target university students with information campaigns about their materials. They hold special seminars on the use of their materials in construction. They actively promote their products and highlight improvements and new applications in the industry. Very little of this is done by wood manufacturers. There are no promotions, no seminars and no information campaigns.

It is for this reason that I support the introduction of multidisciplinary research chairs in the design and construction of wood buildings across the country. Once established, these chairs would attract national and international experts in the field who would widely disseminate their research findings.

However, as our report stresses, to truly develop a wood culture in the Canadian academic community, expertise in the construction of wood buildings must be developed outside forestry faculties.

• (1630)

Just two weeks ago, on November 3, the 11th Annual Wood *WORKS!* Awards were handed out a mere block from here at the new Ottawa Convention Centre. The vision of Wood *WORKS!* is to have a wood culture in Canada where wood is our first choice and best valued building material for all types of construction. Wood *WORKS!* is a national campaign to increase the use of wood in commercial, industrial and institutional construction. The Canadian Wood Council leads this program with funding support from the wood industry, the federal government and provincial governments across Canada. The forest sector enriches the economy of many regions in Canada. That is why this government has made unprecedented investments to renew Canada's forestry sector. In fact, in the last two years, our government has put more resources towards Canada's forestry sector than the previous government spent in five years.

Honourable senators, I am a member of the Standing Senate Committee on Agriculture and Forestry, and I am very proud of the report before you. The study we undertook on the current state and future of the forestry sector in Canada was necessary and turned out to be fascinating. I encourage you to join me in supporting this important contribution to the debate on emerging issues in Canada's forestry sector.

(On motion of Senator Mahovlich, debate adjourned.)

MENTAL HEALTH, ILLNESS AND ADDICTION SERVICES IN CANADA

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Hubley, calling the attention of the Senate to the 5th anniversary of the tabling of the Standing Senate Committee on Social Affairs, Science and Technology's report: *Out of the Shadows at Last: Transforming Mental Health, Mental Illness and Addiction Services in Canada.*

Hon. Elizabeth Hubley: Honourable senators, five years ago the Standing Senate Committee on Social Affairs, Science and Technology brought to our attention the devastating impact of mental illness on Canadian society. The committee's comprehensive report entitled *Out of the Shadows At Last: Transforming Mental Health, Mental Illness and Addiction Services in Canada*, is the first national report on mental health in Canadian history. At almost 600 pages in length and containing 118 recommendations for improving Canada's mental health system, for combatting stigma and discrimination and for dealing with illness and addiction, it is a call to action and a roadmap for a mental health revolution.

Five years later, how far have we come?

In initiating this inquiry, it is my hope that we can continue to improve our mental health system both by taking stock of the progress that has been made since 2006 and by reviewing and renewing our commitment to move forward. Unfortunately, the sheer size of this report makes it impossible for me to discuss everything I would like to discuss here today. I will therefore limit my focus to one great success story — the Mental Health Commission of Canada — and one area in need of immediate improvement: mental health initiatives for Aboriginal peoples.

Creating a national mental health commission and, through it, a mental health strategy for Canada, was one of the key recommendations to come out of the 2006 Senate committee report under the direction of former Senator and former Chair of the Standing Senate Committee on Social Affairs, Science and Technology, Michael Kirby. The Mental Health Commission of Canada was established in 2007 with a mission to actively

promote mental health in Canada, work with stakeholders to change the attitudes of Canadians toward mental health problems, and improve services and support. Today, the Mental Health Commission of Canada is a robust organization at the forefront of change.

The commission has seven initiatives on the go: Opening Minds, Mental Health First Aid, a mental health strategy for Canada, a knowledge exchange centre, the At Home project, the Peer Project and Partners for Mental Health. These projects target eradicating stigma, improving access to mental health care, connecting and engaging interested individuals and groups, and laying the groundwork for future national initiatives.

Of particular interest and importance is the commission's At Home project. This research demonstration project aims to investigate the relationship between mental health and homelessness in five Canadian cities. As of last month, the project could count over 2,200 participants, half of whom now have housing. This project is the largest scientific study on mental illness and homelessness of its kind and has the potential to transform the way we treat addiction and illness. This sort of research study is exactly the type of evidence-centred approach that the Senate committee's report recommended. It is encouraging to see the Mental Health Commission of Canada take action to respond to the committee's report in such an innovative way. I am excited to follow this study into the future and look forward to reviewing its findings.

Honourable senators, I think progress is being made and that the Mental Health Commission of Canada has clearly taken some important first steps toward improving our mental health system. That said, it has not yet published its national strategy. I can only hope that when it does so next year, it puts a greater emphasis on supporting further neurological research and medical treatment for mental illness than we have seen to date. Canadian scientists are currently pursuing cutting-edge neuroscience research to better understand and prevent suicide; and I hope their work will be properly supported and encouraged. The more we can learn about the medical and biological underpinnings of mental illness, the more effectively we can treat needy patients. As André Picard so aptly put it in *The Globe and Mail*, we must be careful lest we give "too much credence to social science and not enough to neuroscience."

While it is clear that the Mental Health Commission of Canada has much to be proud of, when it comes to Aboriginal Canadians, the Government of Canada does not. It should come as no surprise that Canada's Aboriginal peoples are facing a mental health crisis. One need only to look at sky-rocketing suicide, addiction and incarceration rates as proof of this emergency situation. Yet, progress has been slow. The committee's report indicates that despite years of extensive consultation, discussion and planning, Canada's record of treatment of its Aboriginal citizens is a national disgrace. To meet this challenge, the committee accorded an entire chapter of its report to the mental health concerns of Aboriginal people and made 14 recommendations specifically targeting First Nations, Inuit and Metis populations. Nevertheless, it is clear five years later that these recommendations have yet to be acted upon.

One of the main reasons for this persistent inertia is what the report refers to as "jurisdictional ambivalence." In other words, we have a system in which the federal and provincial governments routinely engage in denial and off-loading of responsibility when it comes to delivering services to Aboriginal people. All too often, individuals fall through the cracks when governments and departments clash. To counter this situation, the committee recommended that the federal government adopt a leadership role. This would entail taking overall responsibility for the mental health of all Aboriginal peoples by better coordinating its own initiatives among federal departments and improving intergovernmental relations with the provinces and territories.

Specifically, the committee recommended that the federal government create an interdepartmental committee chaired by the Privy Council Office and that this committee be responsible for reporting to Parliament on the success of federal programs and the wellness of Aboriginal peoples. Further to this, the Senate committee found that there was a need for better data collection and access. It thus recommended that an inventory of all federal programs targeting First Nations, Inuit and Metis peoples be compiled, analyzed for cost-effectiveness and reported back to Parliament. Finally, the committee recommended the creation of an ombudsman position. This person would be authorized to investigate individual complaints and systemic concerns.

• (1640)

They would also report their findings annually to the Parliament, in a similar fashion, to the Correctional Investigator or the Canadian Forces Ombudsman. These measures, the committee argued, would address the ongoing issues of jurisdictional ambivalence and would better ensure that programs were effective, that money was being well spent, and that demonstrable progress was actually being achieved.

The committee hoped that, through this improved interdepartmental coordination and annual parliamentary oversight, help would finally get to the people who need it most.

In addition to this improved framework for greater accountability and oversight, the Senate committee also recommended that the government immediately put a plan in place to target high Aboriginal suicide and addiction rates. The report suggested that perhaps the Mental Health Commission of Canada could take on some of this responsibility. With its resources, dynamism and national focus, the Mental Health Commission has a unique power to transform the mental health of Aboriginal communities. I believe that it could be an effective conduit through which information, funding and creative ideas could be funnelled. That said, the responsibility ultimately lies with the federal government and I call on it to finally take decisive action to this.

Honourable senators, I find it incredibly worrisome that none of the reports' key recommendations targeting Aboriginal peoples have been implemented. When it comes to mental health, I believe that the stakes are just too high to allow historical patterns of indifference to continue. I am afraid that we are doomed to repeat our past mistakes and will continue to fail First Nations, Inuit and Metis Canadians if we do not act now. The federal government must step forward as the leader in Aboriginal mental health care. The recommendations contained in the Senate committee's report are logical next steps in the processes of evaluating current programs and creating new ones. They should be implemented immediately.

Over the past five years, Canadians' overall response to mental health has changed for the better. Clearly, the Standing Senate Committee on Social Affairs, Science and Technology's report has made a difference. Still, there is plenty of room for improvement, plenty of recommendations yet to be acted upon, and plenty of Canadians still in need of assistance. We may have brought mental illness out of the shadows, but we still have a way to go toward assuring mental health and well-being for all.

(On motion of Senator Cordy, debate adjourned.)

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO REFER DOCUMENTS FROM STUDY ON BILL S-4 DURING THIRD SESSION OF FORTIETH PARLIAMENT AND STUDY ON DIVISION OF ON-RESERVE MATRIMONIAL REAL PROPERTY DURING THE FIRST SESSION OF THE THIRTY-EIGHTH PARLIAMENT AND THE SECOND SESSION OF THE THIRTY-SEVENTH PARLIAMENT TO CURRENT STUDY ON BILL S-2

Hon. Dennis Glen Patterson, for Senator Jaffer, pursuant to notice of November 2, 2011, moved:

That the papers and evidence received and taken and work accomplished by the Standing Senate Committee on Human Rights during its study of Bill S-4, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves, during the Third Session of the Fortieth Parliament and its special study on the division of on-reserve matrimonial real property, during the First Session of the Thirty-eighth Parliament and the Second Session of the Thirty-seventh Parliament, be referred to the committee for the purposes of its study on Bill S-2, An Act respecting family homes situated on First Nation reserves and matrimonial interests or rights in or to structures and lands situated on those reserves.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion.

Hon. Senators: Agreed.

(Motion agreed to.)

(The Senate adjourned until Wednesday, November 16, 2011, at 1:30 p.m.)

CONTENTS

Tuesday, November 15, 2011

Available from PWGSC – Publishing and Depository Services
Ottawa, Ontario K1A 0S5